

**Office of the U.S. Trade Representative**  
**Annual Freedom of Information Act (FOIA) Report for Fiscal Year 2014**  
**(October 1, 2013 through September 30, 2014)**

**I. BASIC INFORMATION REGARDING REPORT**

1. Name, title, address, and telephone number of person to be contacted with questions about this report.

Melissa Keppel  
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Executive Office of the President  
1724 F Street, N.W., Room 513  
Washington, DC 20508  
(202) 395-3150  
[foia@ustr.eop.gov](mailto:foia@ustr.eop.gov)

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2. Provide an electronic link for access to the Report on the agency Web site.

Copies of this report, as well as information on how to make a Freedom of Information Act (FOIA) request to USTR, are available under the FOIA link on the USTR Home Page at [https://ustr.gov/about-us/reading-room/freedom information act foia](https://ustr.gov/about-us/reading-room/freedom%20information%20act%20foia)

3. Explain how to obtain a copy of the Report in paper form.

Use the contact information provided above.

**II. MAKING A FOIA REQUEST**

1. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests:

USTR has no separate components. The contact information listed in Section I above should be used for all FOIA requests. All requests for records must be in writing, submitted in accordance with USTR FOIA regulations and should be addressed to Freedom of Information Act Officer, Office of the United States Trade Representative, 1724 F St., N.W. Washington, DC 20508. Due to uncertainties in mail delivery, submitting requests to USTR's FOIA intake mailbox at [foia@ustr.eop.gov](mailto:foia@ustr.eop.gov) is strongly recommended.

The requester must describe the records that he/she seeks in enough detail to enable USTR personnel to locate them in a reasonable amount of time. The request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record.

2. Brief description of why some requests are not granted.

USTR may determine that the agency does not have records within the scope of the request. In addition, records are frequently exempt under one or more FOIA exemptions, including for example:

5 U.S.C. §552(b)(1), which pertains to information that is properly classified in the interest of national security pursuant to Executive Order 13526;

5 U.S.C. § 552 (b)(4), which pertains to commercial or financial information obtained from a person that is privileged or confidential;

5 U.S.C. § 552 (b)(5), which pertains to certain inter- and intra-agency communications protected by the deliberative process privilege and the attorney client and work product privileges;

5 U.S.C. § 552 (b)(6), which pertains to personnel and medical files and similar information where disclosure would constitute an unwarranted invasion of personal privacy

### III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Agency-specific acronyms or other terms: Office of the U.S. Trade Representative (USTR)
2. Definitions of terms used in this Report:
  - a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
  - b. **Average Number** – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
  - c. **Backlog** – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
  - d. **Component** – for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
  - e. **Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
  - f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
  - g. **FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well

as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. **Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entireties under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. **Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
  - i. **Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
  - ii. **Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
  - iii. **Complex Request** – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.

- l. **Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
  - m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
  - n. **Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
  - o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
  - p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
  - q. **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).
3. Concise descriptions of the nine FOIA exemptions:
- a. **Exemption 1:** classified national defense and foreign relations information
  - b. **Exemption 2:** internal agency rules and practices
  - c. **Exemption 3:** information that is prohibited from disclosure by another federal law
  - d. **Exemption 4:** trade secrets and other confidential business information
  - e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
  - f. **Exemption 6:** information involving matters of personal privacy
  - g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably

be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual

- h. **Exemption 8:** information relating to the supervision of financial institutions
- i. **Exemption 9:** geological information on wells

IV. Exemption 3 STATUTES

A. Exemption 3 Statutes Relied upon to Withhold Information

Statute	Type of Information Withheld	Case Citation	Number of Times Relied upon per Component	Total Number of Times Relied upon by Agency
0	0	0	0	0

**V. FOIA REQUESTS**

**A. Received, Processed and Pending FOIA Requests**

	Column 1	Column 2	Column 3	Column 4
	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
<b>AGENCY OVERALL</b>	28 <sup>1</sup>	66	71	23

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<sup>1</sup> After reviewing its FOIA database, USTR adjusted the number of requests pending as of the start of Fiscal year 2014.

B. (1) Disposition of FOIA Requests – All Processed Requests

Number of Full Denials Based on Reasons Other than Exemptions												
Number of Full Grants	Number of Partial Grants/ Partial Denials	Number of Full Denials Based on Exemptions	No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in chart below	TOTAL
30	6	0	31	0	0	0	4	0	0	0	0	71
<b>AGENCY OVERALL</b>												

B. (2) Disposition of FOIA Requests – “Other” Reasons for “Full Denials Based on Reasons Other than Exemptions”

Component	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
Agency Overall	N/A	0

B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied – Report all exemptions, but count each exemption once/request

	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
AGENCY OVERALL	0	1	0	0	3	3	0	0	0	0	0	0	0	0

**VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS**

**A. Received, Processed and Pending Administrative Appeals**

Column 1	Column 2	Column 3	Column 4
Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
1	0	1	0

B. Disposition of Administrative Appeals – All Processed Appeals

Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Numbers Closed For Other Reasons	Total
0	0	0	1	1

C. (1) Reasons for Denial on Appeal – Number of Times Exemptions Applied – Report all exemptions, but count each exemption once/appeal

Ex. 1	Ex.2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex.8	Ex.9
0	0	0	0	0	0	0	0	0	0	0	0	0	0

C. (2) Reasons for Denial on Appeal – Reasons Other than Exemptions

No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicate Request or Appeal	In Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other *Explain in chart below
0	0	0	0	0	0	0	0	1	0	0

C. (3) Reasons for Denial on Appeal – “Other” Reasons from Section VI, C (2) Chart

Description of “Other” Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon	TOTAL
Description:	0

C. (4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
121	121	121	121

C. (5) Ten Oldest Pending Administrative Appeals

Date of Receipt of Ten Oldest Appeals	N/A											
Number of Days Pending	0	0	0	0	0	0	0	0	0	0	0	0

**VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS**

**A. Processed Requests – Response Time for All Perfected Requests**

	Simple						Complex Processing			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days			Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
Agency Overall	33	31	1	98			277	225	17	814

B. Processed Requests – Response Time for Perfected Requests Where Information Was Granted

	Simple Processing				Complex Processing			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
	40	39	1	82	123	231	36	814

C. Complex Processed Requests – Response Time in Day Increments

	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
AGENCY OVERALL	4	0	1	0	0		2	1			8			16

Requests Granted Simple Processing

	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
<b>AGENCY OVERALL</b>	17	22	8	4										51

D. Pending Requests – All Pending Perfected Requests

Simple		Complex	
Number Pending	Median Number of Days	Number Pending	Median Number of Days
3	23	20	275
Average Number of Days		Average Number of Days	
73		384	
Agency Overall			

E. Pending Requests – Ten Oldest Pending Perfected Requests

	10 <sup>th</sup> Oldest Request and Number of Days Pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Request and Number of Days Pending
Date of receipt	9/9/2013	8/26/2013	8/21/2013	8/12/2013	5/28/2013	4/17/2013	10/26/2012	9/28/2012	9/27/2011	3/22/2010
Total	266	275	278	285	338	366	483	502	755	1138

**VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER**

**A. Requests for Expedited Processing**

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
Agency Overall	0	3	81	107	0

**B. Requests for Fee Waiver**

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
Agency Overall	15	1	9	8

IX. FOIA PERSONNEL AND COSTS

	Personnel	Number of "Equivalent Full-Time FOIA Employees"	Number of "Full-Time FOIA Staff" (The sum of Columns 1 & 2)	Costs	Litigation-Related Costs	Total Costs
Agency Overall	1	0.6	1.6	195,000.00	35,000.00	230,000.00

**X. FEES COLLECTED FOR PROCESSING REQUESTS**

	Total Amount of Fees Collected	Percentage of Total Costs
AGENCY OVERALL	\$71.25	

**XI. FOIA REGULATIONS**

- The electronic link to USTR's FOIA regulations, including USTR's fee schedule, can be located at: [https://ustr.gov/about\\_us/readingroom/freedom\\_information\\_act\\_foia](https://ustr.gov/about_us/readingroom/freedom_information_act_foia)

**XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS**

**A. Backlogs of FOIA Requests and Administrative Appeals**

	<b>Number of Backlogged Requests as of End of Fiscal Year</b>	<b>Number of Backlogged Appeals as of End of Fiscal Year</b>
<b>Agency Overall</b>	<b>23</b>	<b>0</b>

B. Consultations on FOIA Requests – Received, Processed, and Pending Consultations

Column 1                      Column 2                      Column 3                      Column 4

	Number Received that Were <u>Pending</u> at USTR as of <u>Start</u> of the Fiscal Year	Number <u>Received</u> During the Fiscal Year	Number Received that Were <u>Processed</u> by USTR During the Fiscal Year	Number Received that Were <u>Pending</u> at USTR as of <u>End</u> of the Fiscal Year
Agency Overall	5	3	2	6

C. Consultations on FOIA Requests – Ten Oldest Pending Consultations

	10 <sup>th</sup> Oldest Consultation and Number of Days Pending	9 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	Oldest Consultation and Number of Days Pending
Total					2014-12-4 58 days	2013-09-26 253 days	2013-08-03 290 days	2012-03-08 645 days	2011-09-16 762 days	2011-09-03 770 days

D. Comparison of Numbers of Requests Received, Processed, and Backlogged (Previous Annual Report vs. Current Annual Report)

	Column 1	Column 2	Column 3	Column 4
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
Agency Overall	97	66	82	71

	Column 1	Column 2
	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
Agency Overall	28 <sup>2</sup>	23

<sup>2</sup> After reviewing its FOIA database, USTR adjusted the number of requests pending as of the start of Fiscal year 2014.

E. Comparison of Numbers of Administrative Appeals Received, Processed, and Backlogged

	Column 1	Column 2	Column 3	Column 4
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
Agency Overall	4	0	3	1

	Column 1	Column 2
	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
Agency Overall	1	0

F. Discussion of Other FOIA Activities (Optional)